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ABSTRACT

In recent years there has been growth not only in the number of students, but also in federal programs that provide student financial support. This document initiates formulation of a federal strategy for consumer protection that works in conjunction with efforts of the states, localities, consumer groups, and other private organizations, describes the responsibilities of federal agencies in postsecondary education as they deal with educational consumer protection, examines the status of federal programs and efforts to improve them, and discusses the issues and implications involved. Federal actions recommended that steps be taken by federal agencies: (1) to help insure students' rights in the marketplace; (2) to prevent or protect against abuses of educational consumers; (3) to arise out of their particular responsibility as funding or guaranteeing agencies; and (4) to strengthen activities of state and private agencies dealing with postsecondary institutions and their consumers. Some abuses commonly reported by students that are dealt with in the document are delivery programs of instruction that are different from those which both the student and the student funding organization were led to expect, and educational funding programs for meretricious rather than educational purposes. (Author/KE)

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THE FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

ED115173

Toward A Federal Strategy For Protection Of The Consumer of Education

Report of the Subcommittee on Educational Consumer Protection

JULY 1975

HE 007 026

U.S. Department of Health, Education and Welfare
Office of the
Assistant Secretary for Education
Washington, D.C.

Federal Interagency Committee on Education
Subcommittee on Educational Consumer Protection

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Foreword

The educational activities of Federal agencies tend to be fragmented because of the decentralized nature of American education. With a view toward achieving better coordination and providing advice to the Secretary of Health, Education, and Welfare concerning educational policy and procedures, the Federal Interagency Committee on Education was created by Executive order in 1964. The Committee has been in operation since that time; the Presidential order was reissued as Executive Order No. 11761 on January 17, 1974.

Chaired by the HEW Assistant Secretary for Education, Virginia Y. Trotter, FICE represents the 30 major Federal agencies and departments administering educational support programs. (See Appendix I for list of FICE members.) Its operational organs consist of 11 subcommittees devoted to critical educational issues. One of the most important of these is the Subcommittee on Educational Consumer Protection.

Created in 1972, to improve coordination among agencies, and to study the major problems and issues confronting the educational consumer (defined as the student), the Subcommittee is chaired by John R. Proffitt, Director of the Accreditation and Institutional Eligibility Staff in the United States Office of Education. Sixteen Federal agencies are represented on the Subcommittee.

Initial activities of the Subcommittee included a review of the efforts of Federal agencies in the emerging field of educational consumer protection with a view toward improving coordination. They

also included the building of linkages with non-Federal organizations. One of the most successful of these was the support of efforts of the Education Commission of the States (ECS) which had created a task force in 1973 to draft model State Legislation for use in regulating postsecondary educational institutions. The Subcommittee was also successful in obtaining multi-agency support for two invitational conferences on educational consumer protection organized by the Education Commission of the States and held in Denver, Colorado, during March 1974, and Knoxville, Tennessee, in November 1974. The model State legislation, as well as other aspects of protection for the educational consumer, were deliberated by representatives of Federal and State agencies, academic institutions, student and consumer groups and others concerned with educational consumer protection. Proceedings and recommendations from both conferences were published by ECS and distributed widely.

As a direct result of the report of FICE on the recommendations of the Denver conference, the Subcommittee was charged by FICE to prepare a strategy paper dealing with the Federal role in educational consumer protection. This report, Toward A Federal Strategy for Protection of the Consumer of Education represents the findings and recommendations of the Subcommittee.

The initial draft of the report was prepared under contract by Mr. George Arnstein with the assistance of Ms. Kim Krekel. A small steering group of the Subcommittee refined the draft and

prepared the recommendations. Ms. Alison Kirkpatrick of the AIE Staff, USOE, served as staff assistant to the Subcommittee. The report was typed by Ms. Mary Cox of the FICE staff.

In addition to an executive summary and recommendations, the report includes a statement of purpose, a review of Federal responsibilities in protecting the consumer of education, and analysis of the issues and implications of improving protection for educational consumer, and some recommended principles and action steps recommended for adoption by Federal agencies.

Bernard Michael
Executive Director
Federal Interagency Committee
on Education

July 1975

TOWARD A FEDERAL STRATEGY FOR PROTECTION
OF THE CONSUMER OF EDUCATION

Summary and Major Recommendations

Chapter I cites major consumer abuses, discusses their effect, and outlines the type of Federal actions considered by the Subcommittee. It also offers a helpful definition of terms such as "licensing," "accreditation," and "eligibility," which are too often confused and used interchangeably.

Chapter II outlines current Federal efforts to protect the educational consumer, and moves briefly through the positive aspects and shortcomings of several major agencies. The general picture shows that Federal efforts in protecting the student consumer are under way, but have yet to achieve a fully developed thrust. Policies are largely reactive. Information provided to the student is inadequate. Safeguards against outright fraud and simple abuse are weak. Few agencies have systematic procedures for handling complaints from students and parents, or for redressing valid claims. Coordination between Federal agencies is at an embryonic stage, and the educational community itself has not activated consumer protection concepts or mechanisms where consumer problems exist. Among the Federal departments and agencies, the response to educational consumer problems varies considerably.

Chapter III focuses upon the current roles of the States, accrediting agencies, and consumer agencies. It notes the importance of, and positive developments in, effective State licensing activities.

It cites the central role of the voluntary, private accrediting bodies to create consensus on norms and standards, and to help set State and Federal standards. It cites potential resources for the protection of educational consumers that will have to be employed if linkages between educational agencies and consumer organizations are to be strengthened.

Chapter IV poses several questions:

1. What should be the Federal effort in protecting educational consumers? The discussion outlines the existing tension between the deep-rooted opposition to Federal intervention in educational administration versus the obvious responsibility of Federal officers to reduce exploitation of Federal programs and their beneficiaries.

2. Who is to provide Federal leadership? The subsection underlines the need for greater Federal coordination and for aggressive and coordinated Federal leadership.

3. How should the Federal "delivery system" respond to consumers and how should it handle complaints at the Federal level? Students with educational consumer complaints have no organized and publicized redress mechanisms.

4. What is the proper role of the accrediting agencies? There is heavy reliance by the Federal government on accrediting agencies and associations to assure quality. If the accrediting process is an indicator of quality, we need to better comprehend the limitations and assets of this process as it relates to protecting the educational consumer.

5. What is the proper role of the States? We now rely on the States to provide minimum compliance with approved standards. The question is whether the responsibilities of the States can and should be strengthened so that their criteria can become more meaningful indicators of quality.

Recommendations

Chapter V lays down four major principles and accompanying action steps as the foundation for a proposed Federal strategy in behalf of educational consumers. The principles are stated below. Outlined with them are the more significant action steps which attend each principle.

Principle I: The student is the primary consumer of educational services. As a result of educational inexperience coupled with the expensive and intangible nature of the services he is purchasing, and in light of the potential for consumer abuse in

"future service contracts" used by most schools, the educational consumer not only has responsibilities, but also has important "consumer rights." When these rights are not respected, the student should be protected and should have redress mechanisms available to him. Where he has responsibilities, he must be fully informed of, and held accountable for, these responsibilities.

Major Actions Recommended

Students who apply for Federal program benefits should be given an informative statement of their rights and their responsibilities. The statement should be stated clearly and in readable type; it should be made part of the application so that the student will have direct exposure to it.

Federal agencies should relinquish any rights they may have as "a holder in due course" of student loan obligations if a student has established a legitimate claim of unfair or misleading practices. In such instances, the government should proceed against the school to recover all sums paid out, for example, under the Guaranteed Student Loan Program.

Principle II: Consumer concepts, legislation and mechanisms should be activated in the

educational marketplace as is now occurring in the traditional marketplace.

Major Actions Recommended

- A Federal Student Tuition Insurance Corporation should be created to protect students and their tuitions when postsecondary schools close.

- There should be a central mechanism on educational consumer complaints that would handle consumer complaints. Such a center would either resolve complaints directly or refer and follow up on them. It would also serve as an informal research instrument and an "early warning system" against educational abuses.

Principle III: When the Federal Government disburses funds to support educational institutions, programs and students, it must assume responsibility for the way those funds affect the educational consumer as well as educational and program objectives.

Major Actions Recommended

- Institutional eligibility for Federal funds for occupational or vocational schools should be contingent upon:
  a. disclosure of student dropout and course completion rates, and in the event that

an organization or school publicly advertises job-related claims, it must disclose job-placement rates.

b. achievement of occupational objectives through placement of graduates in the positions for which they sought training.

c. a pro-rata tuition refund policy.

Principle IV: State educational agencies and private associations or agencies which have direct responsibility for accrediting, approving, licensing and certifying educational institutions and students, should do so with issues of consumer protection clearly in mind. The overall effort to protect the educational consumer must involve consumer agencies and organizations, both public and private, in a vital way.

Major Actions Recommended

FICE should encourage ECS, the National Association of State Administrators and Supervisors of Private Schools and other State and local-oriented organizations to provide assistance to those States which do not possess "approval" legislation, or which are interested

in streamlining the existing legislation. The purpose of this assistance should be the adoption by States of legislation at least as strong and pro-consumer as the Model Legislation developed by ECS.

Federal assistance and guidance should be provided under appropriate guidelines to State, private agencies and consumer organizations for the purpose of developing greater competence in systems analysis and design, improving the educational evaluative process, and encouraging the exchange of information between organizations concerned with consumer protection and education. Any such assistance should be for developmental rather than operational purposes.

Chapter I

Background, Purpose of the Report and A Vocabulary of Terms

Background

The "age of consumerism" has coincided with the emergence of education as a business. Education has been sold to consumers who are seldom recognized as such. Laws typically refer to the educational consumer as a "student," as a "beneficiary" (under the G.I. Bill), as a "dependent," and so on. Students are educational consumers. They invest time, energy and money in the pursuit of programs of self-improvement, with or without direct faculty supervision, in formal or informal setting, with vocational as well as avocational objectives.

In recent years there has been growth not only in number of students, but also in Federal programs which provide for student financial support. Federal agencies have become increasingly aware of the abuses of educational consumers resulting from unethical operations of some educational institutions. In postsecondary education, a number of common malpractices have been identified. They are found in public, private nonprofit, and proprietary institutions. These malpractices include:

(1) misleading and inaccurate advertising,

(2) indiscriminate and overly aggressive recruiting,

(3) lack of full disclosure of salient institutional, characteristics useful to the consumer, such as its history, financial policies, academic standards, and other relevant information,

(4) inferior facilities, course offerings, staff,

(5) false promises of job placement, and

(6) insufficient refund policies (or failure to live up to stated policies).

One example of consumer (student) abuse is that of salesmen who represent a school for computer technicians in New Mexico who solicited Indians to enroll in courses and promised them careers as highly-paid computer programmers. Potential students borrowed thousands of dollars in Federally insured student loans through the same company that offered the courses, never saw the money, and were academically out of their field at the first class meeting primarily because of their inadequate background in mathematics. The school offered no refunds, but charged interest on the loans which no longer received Federal subsidy.

When Federal educational programs, such as the Federally insured student loan program, are abused through malpractice, there are four major results:

(1) Students who are to be the beneficiaries of the programs do not get the full benefits intended; they often lose out instead.

(2) The Nation, which seeks to develop its human talent, is not getting an adequate return for public funds expended.

(3) Federal officials, who have a responsibility to safeguard public funds, find their efforts undermined by those who distort the system through unethical and questionable practices, whether by administrators, students, or financial managers.

(4) All forms of fraud, abuse, or diversion of funds, tend to undermine the integrity of American society and should be combatted.

(5) High student dropout rates and subsequent loan defaults.

Purpose of the Report

The purpose of this report is to initiate formulation of a Federal strategy for consumer protection that works in conjunction with efforts of the States, localities, consumer groups, and other private organizations. This report will describe the responsibilities of Federal agencies in postsecondary education as they deal with educational consumer protection, examine the status of Federal programs and efforts to improve them, and discuss the issues and implications involved.

The thrust of the report is the recommendation of actions which are designed to prevent abuses of the educational consumer and misuse of educational programs. The strategy for Federal action, which is at the heart of the present report, emphasizes:

(1) steps to be taken by Federal agencies to help insure students' rights in the marketplace;

(2) steps to be taken by Federal agencies, singly or jointly, to prevent or protect against abuses of educational consumers;

(3) measures to be taken by various Federal agencies which arise out of their particular responsibility as funding or guaranteeing agencies; and

(4) efforts to be made by Federal agencies to strengthen activities of State and private agencies dealing with postsecondary institutions and their consumers.

Above all, these actions should provide incentives for all schools and colleges to maintain their integrity and, where appropriate, to improve their performance. The task is immensely difficult because American education is diverse and decentralized to the point where it is difficult to ascertain the numbers of postsecondary schools in the United States. (See Chart A, Appendix II, for illustration of vocational and technical schools, and Chart B, Appendix III, for colleges and universities.)

Following are several commonly reported abuses of students by educational institutions:

(1) The delivery of programs of instruction which are different from those which both the student and the student funding organization were led to expect.

(2) The use of educational funding programs for meretricious rather than educational purposes, whether through meaningless enrollment, non-attendance, default or misleading applications (e.g., use of insured loans to induce students to enroll and borrow money which is then diverted either by students or others).

(3) The award of certificates, degrees, or diplomas based on payment of fees rather than on educational accomplishment; the enrollment of foreign students for the purposes of securing residency permits and other noneducational benefits.

(4) The claim to hold a degree, certificate, or diploma which has no standing or whose name is misleading or whose standards are known to be clearly or deliberately inferior to those in common use in the United States (degree mills, diploma mills).

For purposes of this paper, we are concerned primarily with (1) and (2).

The Subcommittee wishes to acknowledge the fact that millions of Americans have received highly satisfactory educational benefits from the Nation's diverse universe of public and private post-secondary schools. It could well be that because of the satisfaction which many persons have experienced, the inequities and abuses which may be observed sometimes in postsecondary education have been obscured. This report focuses upon those inequities and abuses, and recommends some approaches for dealing with them.

A Vocabulary of Terms

Every school exists by permission of the State although some states fail to insist on the issuance of a license, permitting instead an individual or institution to operate without a license, sometimes as a profit or nonprofit incorporated or chartered institution.

State licensing laws normally call for the observance of minimum standards, may authorize the awarding of degrees or regulate the use of titles, and may even restrict the use of such words as "college" or "academy." There are few examples of Federal licensing although radio operators and pilots, for example, hold Federal licenses and some nonprofit educational associations (The National Education Association is one) are chartered by the Congress. The best known exception is the Federal Aviation Administration which licenses flight schools.

Accreditation normally means that a school voluntarily has applied to an agency or organization for evaluation and recognition for meeting certain established standards. It is important to

distinguish between regional accreditation, which looks at entire institutions, and specialized accreditation, which deals with certain departments, specialties or segments within an institution. It also is important to ask about the standing of the accrediting agencies because they differ among themselves.

(a) Some States accredit schools or colleges (Maryland, Indiana, and New York are examples), an action which is more nearly akin to licensing.

(b) More than 60 accrediting agencies are recognized by the U.S. Commissioner of Education who is charged in several Federal laws with maintaining a list of those accrediting agencies which he has determined to be reliable authorities on the quality of training offered by an institution.

(c) There is a similar list (but not identical) of accrediting agencies which are recognized by the National Commission on Accrediting, an organization which is supported by most segments of the educational community but has no legal standing for most Federal programs.

(d) There have been instances of recognition by self-appointed so-called accrediting bodies, seeking to give plausibility to low-caliber educational institutions, including some diploma mills. State officials have been successful in some efforts to ban or enjoin this type of "recognition."

Accreditation is usually conferred for a specified period of years, then is subject to renewal. Few accrediting bodies use probation; instead they use such phrasing as "renewed with stipulation" or other conditions which must be remedied before accreditation is renewed. Probation may or may not be public; it seldom is publicized and consumers are slow to learn of those cases where it has been imposed, or where accreditation has been revoked. The stipulations of conditions, since they are presumed to be

temporary, are normally considered confidential although they may be disclosed by officials of the school concerned.

In summary, accreditation is voluntary, private, and often used as an indicator of quality and reliability by State and Federal officials, and by others.

Certification normally is used by nongovernmental bodies to grant recognition to an individual for having met specified criteria. It is also used by governmental bodies and applied to institutions, such as the FAA certificates of airworthiness.

Teachers in most States must have a license to teach; the process is known as certification, credentialing, or licensing.

Some States insist that educational salesmen be licensed by the State and/or bonded by an approved bonding company.

Approval is conferred by the State Approving Agencies, designated by the governor but funded by the Veterans Administration under contract to make sure that courses meet specified criteria before they can be approved for veterans benefits. (For foreign schools, the VA approves courses directly after consulting other sources--including the Department of State and its consular service, and sometimes the U.S. Office of Education.)

Eligibility (for educational purposes) has two major aspects:

Student eligibility deals with such criteria as are imposed by each program. For example, for veterans

benefits, an eligible student must meet criteria specified in Chapter 38 of the U.S. Code. For the Basic Opportunity Grants Program, there are limitations on income as spelled out in OE regulations.

Institutional eligibility deals with the requirements of various programs as to which schools may participate or what makes a school eligible so that its enrolled students will become beneficiaries. A veteran entitled to student benefits, for example, can use them only if he attends an eligible course, i.e., one which is approved by the State Approving Agency. Similarly, a foreigner planning to study in the U.S. will be issued a student visa if he meets various personal criteria and if an eligible school (as determined by INS) certifies that it accepts him. Most forms of institutional eligibility derive from accreditation.

Control falls under three categories. Some Federal programs are confined to public institutions, others are confined to accredited schools, and still others encompass proprietary schools.

Public institutions usually are open to all, are operated and controlled by a publicly elected or appointing group of school officials and are supported by public funds.

Private-nonprofit institutions are established and maintained by nongovernmental bodies under the control of a private group of officials. Many enjoy additional public support for specific

programs or activities, including Federal institutional support under certain conditions of eligibility.

Proprietary schools seek to make a profit, operate under private control, and number in the thousands (see Appendix II). Some belong to specialized accrediting bodies, some award degrees (while others merely issue certificates of completion). Many proprietary schools serve businesses and industry while others are avocational.

Students receiving veterans benefits, social security payments, BEOGS, or Federally supported vocational rehabilitation may choose to attend a public institution, a privately controlled one, or a proprietary school subject to the known and published criteria of institutional eligibility.

Chapter II

Federal Responsibilities

The Latin wording of caveat emptor expresses the historic concept that the consumer is expected to fend for himself, something he could do on a more reliable basis in the days of relatively stable communities, face-to-face business transactions between principals, and the more personal accountability of neighbors and fellow citizens.

State and Federal efforts to protect the consumer in the United States have increased in recent decades. In 1964, a Special Assistant to the President for Consumer Affairs was established; concurrently, there was an increase of consumer agencies and representatives at State and municipal levels.

Legislative efforts have been aimed primarily at inducing full disclosure, and at regulating the financial aspects of transactions. Recently, there have been Federal laws to stimulate Truth in Lending (with full disclosure of interest rates and finance charges) and pending legislation to establish a Federal consumer protection agency. Similarly, Congress authorized the U.S. National Commission on Consumer Finance which issued a report on Consumer Credit in the U.S. (1972) that recognized the inequities of the Holder in Due Course (HIDC) doctrine which is one of the persistent points of friction in school and other lending transactions.

HIDC maintains that when a purchaser signs a note as payment or partial payment--perhaps for a car or for tuition--the financing institution holding the note is the HIDC and entitled to receive payment even if the car is defective, or never delivered, or is delivered but not as represented at the time of sale. This mechanism leaves the student with a loan payable for an education that may not be delivered.

A bill to counteract the HIDC doctrine is being drafted under the sponsorship of Rep. Lenore K. Sullivan, (Mo.); it seeks to protect the consumer so that he is not liable for services or articles purchased but not rendered. It was this type of difficulty at Riverside University in California which caused Representatives Alphonzo Bell and Jerry Pettis to introduce their bill, HR 11927, calling for more stringent standards for eligibility for Federal funding. They were distressed that residents of their districts, students at Riverside University, were left with Federally insured student loans, now payable, for which the college had not delivered the promised services.

Several Congressional committees have become aware of the student as a consumer. In the House, Representative Floyd Hicks' Special Studies Subcommittee of the Committee on Government Operations heard educators, scholars, and representatives of various Federal agencies testify as to the plight of postsecondary educational consumers, as did Representative James O'Hara's Special Subcommittee on Education. In the Senate, Senator Vance Hartke's Committee on

Veterans Affairs listened to similar testimonies. Senator Pell conducted hearings during September 1974.

While members of Congress are studying the issue of educational consumer protection, awareness of the general public has been initiated through recent articles in the Boston Globe,[1] Washington Post,[2] American Education,[3] and Reader's Digest.[4]

However, substantive action regarding the educational consumer exists primarily at the agency level, where awareness varies and policies are largely reactive. Individual agencies do not have enough power to remedy a system with loopholes which permit school administrators to operate illicitly. Few agencies have avenues of redress for disillusioned educational consumers; students often do not know where to direct their complaints, which often are shelved because no single agency has a comprehensive mandate.

Complaints represent only one segment of students victimized by malpractices. Others do not think to complain; others view both the Federal government and State with hostility for their implicit or explicit endorsement of schools "approved for veterans" and for loan programs that got them into debt in the first place. With

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[1]"Spotlight on Vocational Education," The Boston Globe, March 25, 1974.

[2]Eric Wentworth, "The Knowledge Hustlers," The Washington Post, June 23-28, 1974.

[3]George E. Arnstein, "Ph.D. Anyone?" American Education, July 1974; "Bad Apples in Academe" August-September, 1974.

[4]Jean Carper, "Career Schools Aren't Always What They Appear to Be," Reader's Digest, June 1974.

increasing awareness of the student's dilemma, policies to assist him or her--and to make the educational consumer aware of the practices that exist and of recourse available through Federal agencies--are slowly being developed. An overview of agency policies indicates how much is being done for the consumer of education now.

What are the Federal agencies doing?

As noted, consumer protection is a relatively recent development, juxtaposed to the more historic concept of letting the buyer look out for himself. The activities of Federal agencies tend to be uneven because education, historically a primarily nonprofit field, has surfaced only recently as an area where consumers need a greater measure of protection.

Few agencies have established consumer protection for students. Most lack master or central files for complaints, analysis of complaints, outcome feedback regarding educational consumer protection, and standard grievance procedures for students with educational problems.

The listing of agency policies which follows is illustrative rather than exhaustive, based on interviews, telephone calls, and other sources.

Department of Health, Education and Welfare
Office of Consumer Affairs

The Office of Consumer Affairs (OCA) maintains contact with private consumer organizations and acts as a liaison between them and the

Federal agencies responsible for educational consumer protection. OCA co-organized the two conferences on educational consumer protection and co-authored this report. Office of Consumer Affairs handles a small but increasing number of complaints and publicizes consumer problems in the educational sector. OCA basically promotes educational consumer protection from within the Federal and State governmental structure, and advocates "self-help" mechanisms within the private sector. Because its director is also Special Assistant to the President for Consumer Affairs, OCA promotes educational consumer protection at the White House level.

Office of Education

The main focus of OE activities relative to this subject is in the Accreditation and Institutional Eligibility Staff (AIES), the Office of Guaranteed Student Loans, the Office of Student Assistance, and to some extent, the Division of International Education which renders advice to the AIES as to the value and comparability of foreign degrees and courses. In addition, it is anticipated that the new Basic Educational Opportunity Grant program will become a major area for concern regarding protection of the student.

Since many decisions about eligibility of schools, as made by various Federal and other agencies, derive from the actions of the U.S. Commissioner of Education, the role of the AIE Staff in OE is central. It took an active part in the ECS Task Force, the Denver

meeting, and in planning follow-up activities. Its decisions determine which schools are listed in the various OE directories of schools (and with what kind of annotation as to eligibility or accreditation). Its recommendations heavily influence the Commissioner of Immigration and Naturalization, various State agencies for teacher certification (and other purposes), but only on a voluntary and consultative basis. Protection of the educational consumer is promoted through the following AIES activities:

(1) Recognition of State approval and private accrediting bodies. This function of serving the mandate to the Commissioner of Education, of determining which State and accrediting agencies provide assurance of educational quality, determines the actions of numerous other State, Federal, and private bodies which rely on the Commissioner's recognition and determination whether a school is to be eligible for certain programs or not. Criteria for recognizing State approval bodies and private accrediting agencies have been published and are under periodic review. Currently, the Commissioner recognizes 62 accrediting agencies, 8 State approval agencies, and 8 State boards of nursing.

(2) Recommendations to the Administration and the Congress on legislative changes regarding institutional or program eligibility for Federal funds.

(3) Review and processing of complaints regarding "eligible institutions," recognized accrediting or approval bodies, and violations of student and institutional assistance program regulations. During the period 1969-1974, the AIE staff processed over 500 complaints pertaining to proprietary schools.

(4) Determination of institutional eligibility for OE assistance programs such as the Guaranteed Student Loan Program. Over 8000 institutions are recorded in the AIES master file.

Health Resources Administration, Bureau of Health Resources Development

The Bureau of Health Resources Development (BHRD) serves as the principal focus within the Department of Health, Education and Welfare for programs concerned with development and utilization of health manpower. The BHRD engages in health manpower education programs in the fields of medicine, nursing, public health, and allied health professions and occupations. Within BHRD, the Division of Associated Health Programs serves as the Federal focus for public health and allied health professions with respect to education, practice, and manpower research; it supports and conducts programs with respect to the need for and development, use, credentialing, and distribution of such personnel.

Liaison is carried out with other Federal and non-Federal programs having a common interest in improving the nation's capacity to

deliver health services. Most health manpower education legislation expired at the close of Fiscal Year 1974. There are a number of health manpower bills currently before the Congress.

Eligible applicants for legislatively mandated programs in the past have been public and private nonprofit junior colleges, colleges and universities, nonprofit agencies, organizations and institutions.

Directories of allied health programs in both junior and senior colleges are compiled periodically. No consumer protection literature has been produced in the Bureau or Division.

The Division of Allied Health Professions co-sponsored the ECS Conference on Consumer Protection in March 1974.

Social Security Administration

The Social Security Administration is the second largest Federal source of student financial aid. In FY 1974, it distributed almost $700 million to 600,000 students who were eligible beneficiaries.

Schools which qualify include:

*Publicly supported schools and colleges

*Private schools or colleges which are approved by a State or accredited by a State-recognized or nationally recognized accrediting agency. This includes State approval for veterans benefits.

*Unaccredited private schools if at least three accredited schools or colleges accept their credits on transfer on the same basis as credits transferred from an accredited school.

SSA uses broader criteria for institutional eligibility than any other Federal agency, has no field staff of its own (for this educational purpose), receives few complaints, and occasionally refers questions about proprietary schools to the Federal Trade Commission. SSA informs beneficiaries about the institutional eligibility of a school (and relies heavily on the Education Directory published by OE) but provides no further guidance.

Department of Defense

Issues of major concern to DOD are accreditation of correspondence schools since 80% of all in-service G.I. benefits go for correspondence study, according to a study by the Government Accounting Office (Report No. B-114859, March 1972). The DOD is aware of illicit solicitation practices, misrepresentations, ease of entry and poor completion rates in various schools. DOD has attempted to decrease chances of misrepresentations, problems of recruitment, and general misuse of Federal funds. It co-sponsored the Denver ECS meeting, and has a four-point program:

(1) To enhance consumer safeguards through efforts to strengthen the G.I. Bill;

(2) To support the FTC in its consumer education campaign;

(3) Reform through its own education officers and personnel officers who control the flow of people and the conduct of business on military bases; and

(4) Publication of its Information Guidance Series.

Department of Housing and Urban Development

Under the Model Cities program, HUD has a special concern for exploitation of inner city residents, including their educational

programs. It is concerned with trade schools which have unfair training costs, unreliable tuition refunds, inadequate job placement, and misrepresentation of transferability of credit. HUD is supportive of actions to be taken by FICE or individual agencies to assist the educational consumer, but has taken no steps of its own to alleviate problems in this area.

Department of the Interior
Bureau of Indian Affairs

The Bureau of Indian Affairs recognizes specific problems in the handling of Indian student funds through Educational Opportunity grants and other specially funded USOE-BIA programs. However, all complaints are channeled to local Agency offices or one of the 12 BIA Offices. There are no standard policies for handling grievances, and no central record file of them.

BIA was a co-sponsor of the Denver Conference in March 1974.

Department of Justice
Law Enforcement Assistance Administration

The LEAA funds over 1,000 schools through a number of student programs. It attempts to avoid questionable schools (1) by insisting that the students in their programs attend accredited institutions, and (2) by specifying that 80% of the credits (taken through LEAA) in a two-year program be transferable to a 4-year institution.

Next year the requirement will be stiffened: a higher percentage of the credits must transfer, thus increasing the emphasis on nonprofit higher education.

Immigration and Naturalization Service

For a foreign student to receive a U.S. student visa, he must be accepted by an eligible school. Eligibility is determined by the Immigration and Naturalization Service of the U.S. Department of Justice, with heavy reliance on the publications and listings of the Accreditation and Institutional Eligibility Staff of the U.S. Office of Education.

It is not uncommon for an eligible school to advertise itself as "recognized by the U.S. Department of Justice" which is stretching the truth. INS has designed a system to eliminate the notion of "approval" by making schools apply for eligibility. Form I-17, the petition for approval, says:

> If the school is approved, THE PETITIONER AGREES:
>
> That in any advertisement, catalog, brochure, pamphlet, literature, or other materials hereafter printed or reprinted by or for this school... shall be limited solely to the following:
> "This school is authorized under Federal law to enroll non-immigrant alien students."

Since INS does not operate a domestic educational enforcement system, schools seem to suffer no penalties if they violate the promise. However, Form I-17, below the signature, carries a notation that "If the agreement is not complied with, approval may be withdrawn."

Department of Labor

The Department of Labor places workers in appropriate jobs after they have been trained. However, the selection of institutions in which training is provided is determined by HEW, which approves and recommends various institutions through the Office of Education.

Since the Manpower program relied on OE judgment for selection of training institutions, independent action for protection of the trainees was not deemed necessary.

The DOL publication, Occupational Outlook Handbook, and the reprints from this biennial reference work, are valuable career planning guides which have been exploited by some unscrupulous managers and salesmen for schools. Where the Handbook may forecast demand in a certain occupation--computer programmers used to be an example--certain schools have used the information to persuade potential students that this meant an assured job placement for them.

DOL co-sponsored the ECS meeting in Denver.

Department of Transportation
Federal Aviation Administration

FAA interests cover every aspect of aviation education, including safety, competency of aviation machines, mechanics, and crews. Through a prescribed certification process governed by Federal Aviation Regulations, FAA approves nearly 3000 pilot/flight schools for technicians, and 150 aviation maintenance technician schools. Protection of the consumer of aviation education is promoted through the following FAA program.

(1) Air worthiness: inspecting, approving, licensing aircraft and all their components utilized during instruction.

(2) Prescription of aviation training via detailed curricula, including clock hours, cited in Federal Aviation Regulations for pilots/air-crew, mechanics, controllers, and technicians.

(3) Individual certification of competency of aviation professionals, as well as all air carrier and general aviation pilots.

(4) The Agency is specifically charged not only with safety-competency activities, but its functions also include those of serving as advocate and promoter of aviation industry and activities.

A noteworthy aspect of FAA educational functions is that it is the only Federal agency which directly licenses and approves public and privately owned schools. This Federal license deals with the quality of instruction but not with the recruiting practices or similar aspects of the schools. Thus for a school to offer courses eligible for veterans benefits, it must turn to the State Approving agency for such eligibility. The FAA has recently included in its regulations a restriction against flight schools advertising courses that are not offered.

Federal Communications Commission

Since the FCC has no mandate in its law, it has no active program or materials on consumer protection in education. The FCC does not certify schools or provide advice on schools other than to provide information sources or occasional referrals to other agencies.

Federal Trade Commission

The Federal Trade Commission has been answering consumer complaints for several years. It established a 5-point program to accommodate the consumers of vocational education.

(1) "Guidelines for Private Vocational and Home Study Schools" is an attempt to let the vocational school industry know what practices in the industry are deceptive and unfair.

(2) Consumer Education Campaign is a multi-media affair which began in 1973 to inform consumers of the industry and its problem areas.

(3) Litigation work includes investigation of complaints issued by FTC against 25 schools since 1970.

(4) Federal/State Cooperation and Coordination is a plan for bridging the information gap between States and Federal agencies, and has involved a general exchange of ideas concerning standards for proprietary schools. FTC participated in the Denver ECS conference.

(5) On August 15, 1974, the Commission proposed a binding trade regulation rule having the force of law.* The rule would require that prospective students be provided with information which may aid them in making an informed and intelligent decision whether or not to enroll in a school. The proposed rule contains a pro rata tuition refund provision and a ten-day cooling-off/reaffirmation provision, in addition to disclosure and advertising substantiation requirements.

Fraud Branch, Postal Inspection Service, U.S. Postal Service

The Postal Service has been helpful to the educational consumer through its distribution of a general guide for consumer protection, parts of which are applicable to the student. Information on

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*Federal Register, Vol. 39 (159), August 15, 1974, p. 29385.

legislation and enforcement against mail fraud has been especially helpful to the educational consumer. The Postal Service's Fraud Branch distributed a 28-page guide for consumers titled "Mail Fraud Law - Protecting: Consumers, Investors, Businessmen, Patients, Students," which contributed to the discovery of 21 home study schools involved in mail fraud. As a result, a number of illicit correspondence schools were closed. The Fraud Branch has also been instrumental in closing down some diploma mills.

Veterans Administration

The V.A. operates the largest of all the Federal student financial aid programs. As of February 1974, it cost approximately 3 billion to send about 2 million veterans to school last year, including certain widows, orphans, and active-duty military personnel. The V.A. operates through 58 regional offices which handle local complaints; there is no central clearinghouse. The role of the VA Central Office is to help assure quality education for its constituents; but consistent with the basic Federal policy of avoiding or minimizing direct Federal intervention in the operations of schools, the VA itself does not examine the quality of instruction offered, but leaves that to the State to review and approve.

The VA supports the FTC's attempts to inform the educational consumer, has distributed the FTC guidance packet on vocational schools, and is printing a comparative information packet, "US Facts," outlining correspondence school data for veterans' use.

The VA participated in the ECS Task Force on a Model State Law to license schools and was a co-sponsor for the ECS Denver Conference.

U.S. Civil Service Commission

The U.S. Civil Service Commission receives many complaints regarding activities of schools that offer correspondence courses for civil service examinations--so-called "civil service" schools. Inasmuch as the Civil Service Commission has no jurisdiction in such matters, it cooperates with the U.S. Postal Service, the Department of Justice, the Federal Trade Commission, and State Consumer Protection Agencies by referring appropriate complaints to these agencies.

The Commission desires to warn the public of the misleading information given by many such schools, and has distributed a fact sheet regarding so-called "civil service" schools and their relation to Federal employment. The fact sheet emphasizes that the Commission does not support any "civil service" schools or any claims they have regarding Civil Service testing or employment with the Federal government.

Coordinating Federal Agencies Efforts--The FICE Subcommittee on Educational Consumer Protection

To make a beginning toward achieving better coordination of the Federal agencies concerned with various aspects of protecting the educational consumer, the FICE Subcommittee on Educational Consumer Protection was created in 1972. As one of its first efforts the Subcommittee began the study of major problems and issues

confronting the educational consumer whom it defined as the student. Early planning sessions revealed the need for a subcommittee whose primary concerns were determination of Federal mechanisms for educational consumer protection, and legal questions concerning the authority of the Federal Government in dealing with educational problems. Also considered were the development and dissemination of information, facilitation of Federal-State cooperation and coordination, and the improvement and coordination of interagency treatment of problems related to educational consumer protection.

Subcommittee efforts have produced results in several directions.

(1) A Task Force of the Education Commission of the States last year produced model State legislation (Model State Legislation Report No. 39, June 1973). Funding was arranged through FICE and participation included representatives from FICE, VA, OE and accrediting agencies.

(2) Co-sponsorship with ECS and other Federal agencies of the National Invitational Conference on Educational Consumer Protection, held in Denver, Colorado, in March 1974, which formulated several recommendations. A second conference was held on November 14-15, 1974, in Knoxville, Tennessee. A report on this conference, including recommendations, is available from the Education Commission of the States, Denver, Colorado.

(3) Consumer guidance through educational materials developed by the Federal Trade Commission pertaining to vocational schools. OE is preparing additional materials. A pamphlet explaining how the

victimized educational consumer may gain redress is being designed for the Subcommittee by FTC and OCA.

(4) Reports concerning the consumer protection interests and activities of the various Federal agencies, such as this Federal strategy report for educational consumer protection.

(5) Contribution to the rising public awareness of the need for better consumer protection. The Subcommittee encouraged preparation of additional materials, including publication of two articles on consumer protection (with several thousand reprints) by George E. Arnstein in American Education.

(6) Served as a catalyst for consumer activities in various States.

(7) Improved communications among Federal agencies, and between the agencies and other groups with consumer interests.

Chapter III

Role of Non-Federal Agencies

Current role of the States

The States vary greatly in their laws, their enforcement policies, their results, and in their protection of educational consumers. At least three States--Tennessee, North Carolina, and Montana--have enacted the ECS Model legislation which was endorsed by the Committee on Suggested Legislation of the Council of State Governments. Some States are hospitable to diploma mills, others are not. Some recognize the performance of vocational/technical accrediting agencies, others do not. For higher education institutions, most States rely on regional accrediting agencies, directly or indirectly through various forms of equivalency. All of them operate one (or more) State Approving Agency to approve courses for veterans, and this activity is underwritten by the VA at an annual cost of about $10 million.

State approving bodies often rely on private accrediting agencies; both play an important part in determining eligibility for Federal funds. They affect both the Federal government and the educational consumer. Criteria for Federal eligibility today derive largely from the work done by others. For example, before the Social Security administration will send out a check, the "dependent" must be enrolled in a course approved by a State or private accrediting agency.

The Federal reliance on State standards implies great trust in their eligibility requirements, although standards vary from State

to State as does enforcement of the laws that require standards. A dishonest school operator may be forced to leave one State after his malpractice is discovered, but State A typically fails to alert State B and he may set up a similar operation there. State C may know something unknown to either State; and the Federal files may contain information relevant to the State approving agency, if only the agency knew where to ask and how to get it. Lack of interstate cooperation and coordination has resulted in the following cases and more:

*California is an example of good administration, where the staff in the Department of Public Instruction enforces the licensing laws and approves courses for veterans. But a loophole in its licensing law allows a college incorporated for profit or nonprofit to operate without supervision of the State Superintendent of Public Instruction. It is under this loophole that Riverside College-Riverside University was able to operate legally, prior to its being enjoined under court order.

*Florida demonstrates the effectiveness of a new licensing law, for degree granting institutions, enacted in 1971, with increasingly diligent enforcement. A member of the Florida licensing board told the Denver Conference that certain undesirable "colleges" had left Florida and set up in other States. Prior to the new law, Florida had been a notorious haven for diploma mills.

*More general examples include home-study courses, approved by the State agency and approved for veterans benefits, relating to forest ranger education, although no State department of forestry

will hire a forest ranger solely on the strength of his correspondence training.

*There are schools that have State licenses, that have State approval for veterans, but which treat veterans differently from non-veteran students, mostly because the combined Federal-State laws and regulations force them to set up more generous refund policies for veterans.

*In some States employees of the State Department of Education visit a school for licensing purposes, while another team from the same State Department of Education visits the school for purposes of veterans approval, but they do not compare notes or share information derived from the visits.

*Under the Education Amendments of 1972, the U.S. Commissioner of Education has been given the additional task of "recognizing" State agencies. He recognizes those which the Advisory Committee on Accreditation and Institutional Eligibility determines to be reliable authorities regarding the quality of public postsecondary vocational education in their respective States, for the purpose of determining eligibility for all Federal student assistance programs. (Sect. 438a, HEA 1965 amended 1972.) The effect of the so-called Mondale amendment is to increase the work and scope of AIES and the State agencies so recognized.

What is the role of the accrediting agencies?

The accrediting agencies are the normative regulators despite their voluntary, private nature. States tend to fall back on criteria established by a nongovernmental body instead of establishing their

own criteria as to quality. For example, many State licensing laws specify that accredited schools shall be exempt from licensing, and nonaccredited schools shall be inspected to see if they approximate the standards set by the accredited schools. Federal agencies do the same. Many laws require accreditation, or equivalent or some standard derived from accreditation.

The results of this reliance vary. On the one hand, accrediting agencies have taken the view that they came first, that they have their own purposes and that Federal agencies should not now force them to do things which may be useful to Federal officials, may even serve Federal purposes, but present a distortion of their own procedures and intent. Federal insistence on adherence to equal opportunity or affirmative action are examples, with some accrediting bodies objecting to their proposed role of becoming Federal enforcers (regardless of the merit of the rules to be enforced).

All of the accrediting agencies now recognized by the U.S. Commissioner achieved such recognition by virtue of applying for it, thus demonstrating their willingness to meet the published criteria for recognition. But at the same time, the accrediting bodies are reluctant to engage in full disclosure, to publicize those institutions which have been put on probation, or to disclose some of their findings which could be used by students and applicants as an early warning system.

Conversely, the accrediting agencies began life--some started at the turn of the century--with an institutional agenda; their standard-setting function and recognition has been useful to consumers.

Role of consumer agencies

Further assistance to the consumer is provided through a variety of consumer leaders and organizations, including national consumer advocate associations, better business bureaus, municipal consumer officials, various ombudsmen, and the growing number of groups seeking to organize, defend and protect consumers. Trade unions have also stepped up their interest in the consumer field, and private business is becoming increasingly responsive.

In addition to their current consumer and educationally oriented activities, these organizations could also play a role in the awarding of licenses or approval of courses. The State Approving Agencies, under the law, must inquire as to the reputation of the faculty, staff, administrators and owners of a school. They would be free to consult consumer organizations regarding their knowledge of the schools, their personnel and their performance. State and accrediting agencies could also ask consumer organizations for recommendations regarding consumer participation in their procedures.

While linkages between the educational agencies and the consumer organizations have been weak, the Denver conference sponsored by ECS, FICE and others last March, and the follow-up conference in Knoxville, served as a force to strengthen these links.

Chapter IV

Issues and Implications

Not only is there a historic trend toward greater consumer protection, there also is growing Congressional interest, rising activity by governmental agencies at all levels, and increasing clamor by consumer groups to have a voice in the structuring of the rules by which business is done in the United States.

Education, because it has been traditionally and predominantly non-profit, has not achieved great visibility in the area of consumer protection. The proprietary sector, which comes under the mandate of the Federal Trade Commission, has undergone scandals, exposures, and legislative counterthrusts, especially in the reforms embodied in the Second GI Bill of Rights (1952) which overcame some of the abuses of the original, 1944, version. Today's workload of the FTC shows that about six percent of all FTC consumer protection activities concern proprietary schools.

In short, there are notable pressures for Federal agencies to make a greater effort to protect consumers in education, and there is widespread agreement on the need to prevent or counteract illegal and objectionable consumer practices in education. There are unresolved issues as to just how the Federal effort is to be carried out.

To be sure, each agency has responsibility for improving its own procedures, including systems designed to overcome malfunctions.

But it is also true that the consumer probably will be served better if there is a coordinated effort designed to combine the efforts of Federal, State, and local agencies, as well as voluntary bodies.

What should the Federal effort be to protect educational consumers? On the one hand, there is the tradition against Federal control or interference in education, reinforced by explicit legislative provisions in many educational laws. For instance, the following statement appears in Section 422 of the General Education Provisions Act:

> No provision shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment of transportation of students or teachers in order to overcome racial imbalance.

On the other hand, there is the obvious fact that consumers are being exploited in a variety of educational settings, that State licenses are often weak or nonexistent, that accreditation provides inadequate assurance of business ethics or financial stability, that none of the existing agencies, singly or in combination, has solved these problems.

Further, there is the obvious fact that Federal administrators are charged with the protection of Federal funds. Thus, they have a mandate to exert diligence in determining who is to be eligible for the receipt of Federal funds and services.

Today, with the great amount of money available from public funds for student assistance, we see an apparent parallel increase in abuse of funding assistance programs and victimization of students; therefore, pressures for a greater and stronger Federal effort are building up, and putting to the fore the question of how far the effort may properly go and how it should be organized and managed.

The issue is unresolved and probably should be defined pragmatically in the sense that increased Federal efforts will be accepted because they are helpful, supportive, noncontrolling, or an evident part of Federal vigilance over Federal interests. The challenge is to resolve the issue constuctively and cooperatively.

Who is to provide Federal Leadership?

Another unresolved issue is the matter of leadership. There exist differences in readiness, mandate, timing, and enthusiasm for consumer protection among various Federal agencies; there is no past history of shared or pooled funding (with the significant exception of support for the ECS Task Force and the Denver and Knoxville Conferences).

As matters now stand, both power and funding rest with different Federal agencies, each of which follows its own agenda. The VA, for example, is very diligent in enforcing certain standards, especially regarding refunds, so that veterans get a more generous refund from some schools than do comparable nonveterans. Conversely, the VA and its State Approving Agencies appear to do little in the way of

consulting the Federal Trade Commission as to information about schools in the FTC files.

Similarly, the Office of Education administers Congressionally mandated standards of eligibility, designed at least in part to protect Federal funds. The OE system, however, with its heavy reliance on private accreditation, is essentially separate from the VA system with its mandated reliance on State Approving Systems.

The Federal Interagency Committee on Education has demonstrated leadership but lacks authority. The present strategy report is designed to achieve further interagency cooperation and may become a building block toward coordinated Federal leadership.

The question of Federal "delivery" systems

No single agency today has been given a mandate to protect the educational consumer. This raises the question of how the consumer is to be protected if there is nobody in charge. Stated differently: Various agencies now make some effort to protect the consumer, but could or should there be a better "delivery" system for student protection, and who is to operate it (and pay for it)?

There is the initial problem that the student, who thinks he has been "ripped off," has no obvious place to complain. The Office of Consumer Affairs (HEW), with FTC and the Subcommittee on Educational Consumer Protection, has designed complaint forms which list numerous potential places where complaints should be lodged. But the very length of the list (which includes the Fraud Division

of the U.S. Postal Service)--and the list is quite realistic--may discourage the potential complainant and also scatter complaints among the various agencies in such a way that points of abuse and friction will emerge only slowly. The dispersal of complaints increases when private agencies (accrediting associations) and State agencies are included. Every agency, in good faith, may be able to report that it receives very few complaints and that the problem therefore is minor.

The weakness of the complaint form reflects the fragmentation of the Federal agencies and poses the questions not only of which (and how many) Federal agencies are involved but also who is to operate a system of consumer protection, who is to coordinate the probable subsystems, and how they can best be made to dovetail.

There are several alternative means of "delivering" one or more aspects of the Federal thrust.

(1) A single Federal agency may become the lead agency, a kind of primus inter pares.

(2) FICE itself could become the administrative mechanism, based on the fact that substantially all of the relevant agencies belong to FICE.

(3) An interagency group other than FICE could administer a program.

(4) At least part of the effort--technical assistance, training, as well as evaluation and research--could be entrusted to a non-governmental third party such as the Education Commission of the States.

How can existing agencies (Federal, State, local and private) be stimulated to improve their systems and make the common effort more effective?

While any Federal strategy in this or other areas of effort must emphasize direct actions to be taken by components of the Government, no effective strategy in this area can ignore the real and potential contributions of non-Federal agencies and organizations. In developing the cooperative assistance of these groups, the Federal government should engage in a role of leadership and developmental support.

What is the role of the accrediting agencies?

First, a word of caution: Accreditation takes many forms (see page 12, supra) and even those accrediting agencies which are "recognized" by the U.S. Commissioner of Education differ greatly in their self-assigned roles and standards. A self-study for one of the traditional regional accrediting associations tends to put a much stronger emphasis on educational content and quality than the vocational/technical accrediting associations, most of whose members are proprietary and profit-seeking. Thus, the vocationally orientated accrediting agencies put greater stress on financial stability and business practices, tend to look at specific courses and curricula of a school, while the regionals undertake institutional accreditation which makes no claim to accredit every course, every department, every aspect of an entire institution.

These distinctions are important because the Office of Education relies heavily on the private accrediting agencies for its

determination of eligibility for Federal programs. For certain publicly supported vocational schools, the Office of Education also recognizes State approval agencies and, in any event, seeks to make sure that all schools operate legally (which may be without a license if the State law does not require a license).

The determination made by the AIE Staff of OE tends to have many consequences, because other Federal agencies tend to rely on this determination. The approval system for veterans may rely on accreditation (according to the law) and the Immigration and Naturalization Service may recognize schools for nonresident alien students on the strength of OE recognition. Further, many State certification boards, Federal and State civil service commissions, foreign agencies (seeking to determine validity of U.S. degrees, for example) and even the editors of dictionaries who include lists of domestic colleges and schools--all of these often rely upon the "recognition" of accrediting bodies awarded by USOE.

The issue is whether the system which is now prescribed in current laws is the best and most effective one to achieve the results intended or whether it has become obsolete since "recognition" was legislated in 1952. Further, there is the question: If accreditation is not a reliable indicator of quality, then what can or should be put in its place?

What is the role of the States?

Every known domestic system of approval or eligibility relies on the States, but only as a minimum, and always with the imposition of

additional criteria. The issue then is not whether State licensing laws are adequate--in many States they are not, and in still others they are poorly enforced--but rather whether the hand of the States can or should be strengthened so that their criteria can become reliable indicators of quality.

While the licensing of educational institutions is a State responsibility, performance has been sufficiently weak that the Congress mandated, and the VA funds, the operation of a separate State Approval System for eligibility for veterans benefits. This system operates in such a way that it may rely on private accreditation as a criterion of approval, or it may rely on an alternative system. We thus see the strange arrangement of a system which relies on accreditation (mostly in higher education) and also competes with accreditation (mostly in the non-degree area).

Very few States or Federal agencies rely on the VA/SAA system, although the Social Security Administration does include it as one of its four alternative means of determining eligibility for its 600,000 student beneficiaries.

The question is similar to the one about accrediting agencies: If State licensing or approval for veterans is not a reliable indicator of quality, then what can or should be put in its place? Conversely, what can or should be done to strengthen the performance of the States?

Chapter V

Recommended Principles and Action Steps--Federal Strategy

Principle 1

All of us--Federal officials and school administrators, professionals and private citizens--need to develop greater sensitivity to the rights of others. As Federal officials, we are charged with the constructive and conscientious use of Federal funds; we are concerned with the integrity of our society and its ethical standards. As members of this task force (subcommittee) we are specifically charged with safeguarding the rights of educational consumers.

These guiding principles become meaningful only if they are translated into actions, into very specific steps which we enumerate below, although the list is by no means exhaustive.

We think students can better protect themselves if they have access to meaningful information, and accordingly our recommendations deal with full disclosure. We think schools should not mislead in their advertising (and neither should food stores, automobile dealers, or anyone else), and that educators should be held to the highest standards of ethics because education is supposed to lead to truth and personal growth; educators have assumed certain functions of leadership and guidance which automobile dealers have not assumed.

We also are conscious of the fact that students are incompletely informed, because students qua students have shown that they seek additional knowledge and may thus be presumed to be less capable of fending for themselves than other consumers.

The student is the primary consumer of educational services. As a result of educational inexperience and as a result of the expensive and crucial nature of the service he is purchasing and finally as a result of the potential for consumer abuse in the future service contract used by most schools, the educational consumer not only has responsibilities, but he has important "consumer rights." When these rights are not respected, the student should be protected and have redress mechanisms available to him. Where he has responsibilities, he must be fully informed of, and held accountable for, these responsibilities.

Action Steps

We recommend that:

A. Students who apply for Federal funds should be given an informative statement of their rights, and their responsibilities. The statement should be stated clearly and in readable type; among other possible uses, such a statement should be made part of the application so that the student will have ready exposure to it before he signs the application.

B. When students' rights are not respected, they should have redress mechanisms available and adequate information to use them effectively. The attached Complaint Guidelines (see Appendix IV) prepared by the Subcommittee, are designed to provide such information.

C. Federal agencies should relinquish any rights they may have as a "holder-in-due-course" of student obligations if a

student has established a legitimate claim of unfair or misleading practices. In such cases, the government should proceed against the school to recover all sums paid out under, for example, the Guaranteed Student Loan Program.

Principle 2

Consumer concepts, legislation and mechanisms should be activated in the educational marketplace as they are in the traditional marketplace.

Action Steps

We recommend that:

A. There be created a Federal Student Tuition Insurance Corporation which should have as its essential purpose the protection of students and their tuitions if postsecondary schools close.

B. There be established a Federal Interagency Center on Educational Consumer Complaints with the primary purpose of developing and coordinating interagency activities in this area. Among the functions of the center would be that of collecting, recording and disseminating consumer complaints and information to appropriate Federal agencies. In addition, the center would attempt to improve links of communication between consumer organizations, Federal and State agencies, accrediting agencies, and education groups. It would act as a research instrument on volume and nature of complaints as well as an early warning system against possible educational abuses.

C. Federal agencies should continue to develop and to disseminate educational consumer information and materials such as that of the Federal Trade Commission.

D. All Government and other publications regarding the job market (and all reprints of the same), capable of being used in any way by particular schools as a selling tool, should have a disclaimer in larger type to the effect that the estimates made are general and do not necessarily apply to graduates of any particular school; the only reliable information is that school's placement rate. In addition, all such publications should be clearly dated.

Federal agencies, individually or in concert, should direct resources to the identification and evaluation of consumer education problems. In addition, all Federal agencies should undertake a systematic analysis of their own programs of educational assistance in order to uncover and correct opportunities for abuse of such programs.

F. The educational consumer finds it difficult to distinguish between accreditation, approval, renewal with stipulations, recognition by the U.S. Commissioner of Education, and other subtle distinctions in connection with the approval or accreditation process. Federal agencies need to take the lead in standardizing the use and meaning of these and related terms.

G. The action steps enumerated in Principle 3. D. (2) and (3) following should be applicable to all postsecondary educational institutions.

Principle 3

The Federal Government, whenever it disburses funds, directly or indirectly to support educational institutions, programs and students, must assume responsibility as to how those funds affect the consumer of education as well as education and program objectives.

Action Steps

We recommend that:

A. All Federal agencies which recognize, approve or certify post-secondary institutions or programs should make protection of the educational consumer part of their criteria for recognition, approval or certification. In cases when an approval or certifying function is assigned to an agency which does not possess the requisite skills involved, the agency should delegate this responsibility to, or contract with another agency which has the necessary mechanism for carrying out the function.

B. Agencies should review their criteria at least yearly to insure that they are providing maximum possible protection to the consumer of postsecondary education.

C. If such protection is not achieved, agencies shall take the necessary steps to meet their criteria and/or change their criteria to achieve the desired level of educational consumer protection.

D. In reviewing the statutory requirements for establishing institutional or program participation in Federal aid programs, agencies should include the following consumer-oriented measures:
(1) Alternative evaluative processes for determining

institutional probity and the quality of training or education offered.

(2) As conditions for eligibility of postsecondary occupational institutions or programs, the institution should be required to:

(a) Make full public disclosure of student dropout and course completion rates, and in the event the school publicly advertises job claims, it makes disclosure of job placement rates, and all other "material information" concerning the school and its programs.

(b) Demonstrate achievement of occupational objectives through placement of graduates in the positions for which they sought training.

(3) As a condition for eligibility of postsecondary institutions or programs, the institutions should be required to charge only for services actually rendered. For that reason, institutions should establish and publish a pro-rata refund policy.

(4) Procedures for terminating the eligibility of any institution participating in Federal student or institutional assistance programs when it is established that such institution utilizes advertising, sales, enrollment, or other practices of any type which are erroneous, deceptive, misleading, or unfair either by acts or omission.

E. Use by a postsecondary institution of deceptive or high pressure sales techniques should be considered as negative factors pertaining to eligibility for participation in Federal funding programs. Serious consideration should be given to an outright prohibition against use of such techniques as a condition for participation.

F. Government funding and guarantee agencies should require schools to have a ten-day affirmation period as a requirement for eligibility. An affirmation period is a variant of the "cooling-off" concept. It is where the student is required to take affirmative actions to continue in force a contract for educational services rather than to take affirmative actions to cancel the contract as is seen in the conventional "cooling-off" formulation. This would conform to the affirmation requirement presently utilized by the Veterans Administration.

Principle 4

State educational agencies and private associations or agencies which have direct responsibility for accrediting, approving, licensing and certifying educational institutions and students, should do so with issues of consumer protection clearly in mind. The overall effort to protect the educational consumer must involve consumer agencies and organizations, both public and private.

Action Steps

We recommend that:

A. FICE explore with the Education Commission of the States development

of a clearinghouse of information, which in effect would be a data bank of information on all postsecondary education programs. Such a data bank might serve to enable students, prospective students, counselors, and other consumers of postsecondary education services to make informed judgments regarding selection of institutions and/or programs that would be responsive to their needs.

B. FICE continue to support the Model State Legislation for Approval of Postsecondary Educational Institutions, as recommended by the Education Commission of the States, June 1973.

C. FICE encourage ECS and the National Association of State Administrators and Supervisors of Private Schools to provide assistance to those States which do not possess "approval" legislation, or which are interested in streamlining the existing legislation. The purpose of this assistance should be the adoption by States of legislation at least as strong and pro-consumer as the Model Legislation.

D. Federal assistance and guidance should be provided under appropriate guidelines to State and private agencies and organizations for the following purposes: developing greater competence; improving systems analysis and design in the educational evaluative process; and encouraging the exchange of information between organizations concerned with consumer protection and education. Any such assistance should be for developmental rather than operational purposes.

E. FICE encourage and work with the National Office of Consumer Affairs to involve consumer agencies and organizations in educational consumer protection activities.

In summary, we recommend that Federal agencies look to their own systems, cooperate with other Federal agencies, and also take a supportive stand in effecting better liaison and cooperation with State, local, public and private agencies to protect the educational consumer.

APPENDIX I

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

Virginia Y. Trotter, Chairperson
Assistant Secretary for Education
Department of Health, Education,
and Welfare

Members

*Commissioner of Education
*Director, National Institute of Education
*Department of State
*Department of Defense
*Department of Agriculture
*Department of Labor
*National Science Foundation
*Energy Research and Development Administration
*National Aeronautics and Space Administration
ACTION
Alcohol, Drug Abuse, and Mental Health Administration
Civil Service Commission
Community Services Administration
Department of Commerce
Department of Housing & Urban Development
Department of the Interior
Department of Justice
Environmental Protection Agency
National Endowment for the Arts
National Endowment for the Humanities
National Institutes of Health
Office of Child Development
Social and Rehabilitation Service
Veterans Administration

Observers

*Office of Management and Budget
*Council of Economic Advisors
Council on Environmental Quality
National Academy of Sciences
Smithsonian Institution

Bernard Michael
Executive Director

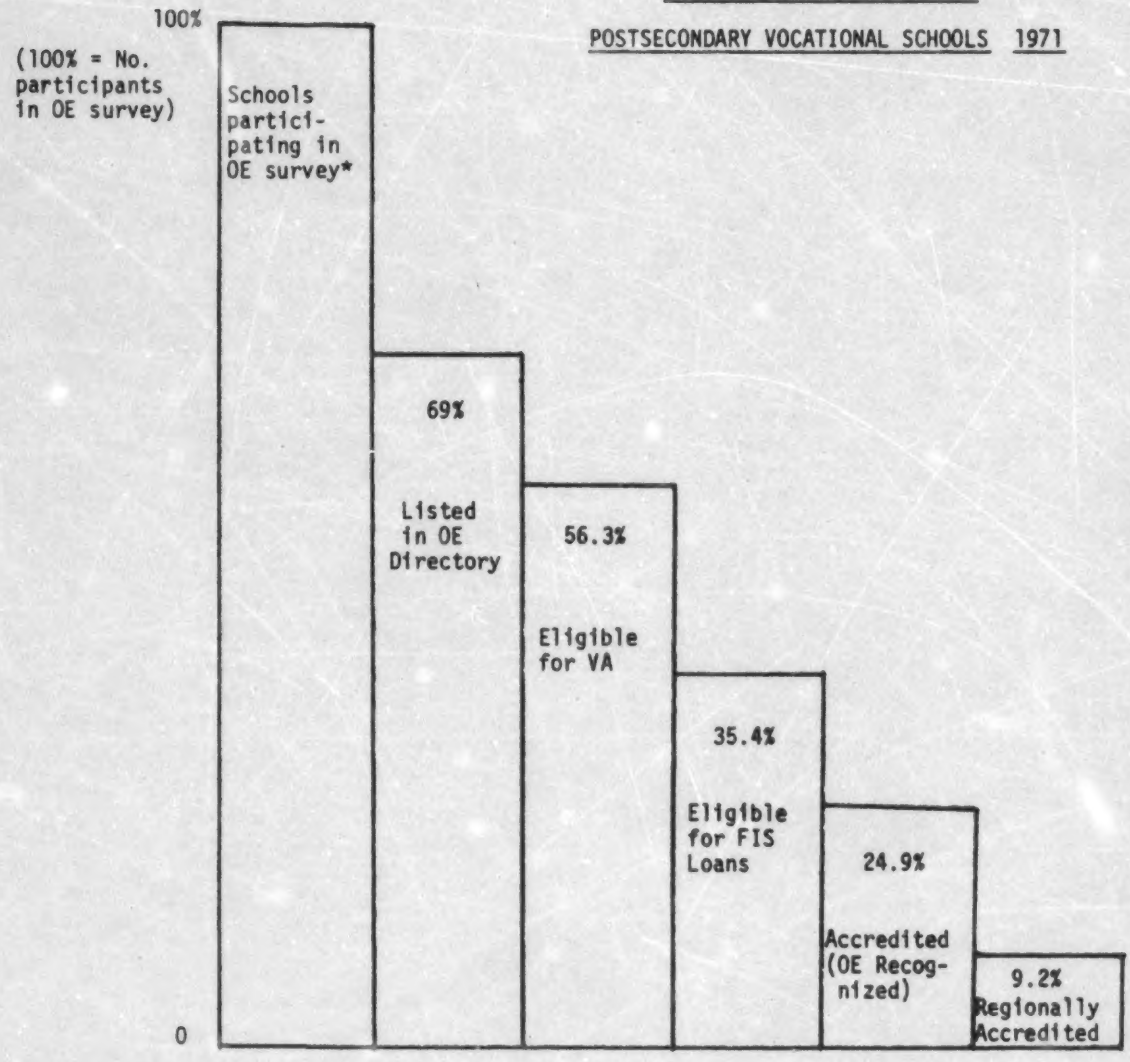
*Agencies named in Executive Order 11761

Chart A

APPENDIX II

VARIATIONS OF ELIGIBILITY

POSTSECONDARY VOCATIONAL SCHOOLS 1971



Number of Postsecondary Vocational Schools	11,700	8,182	6,594	4,145	2,917	1,077

*Total number of postsecondary vocational schools is unknown, and there is no reliable estimate. This survey taken from Orlans et al, Table 6, p. 317.

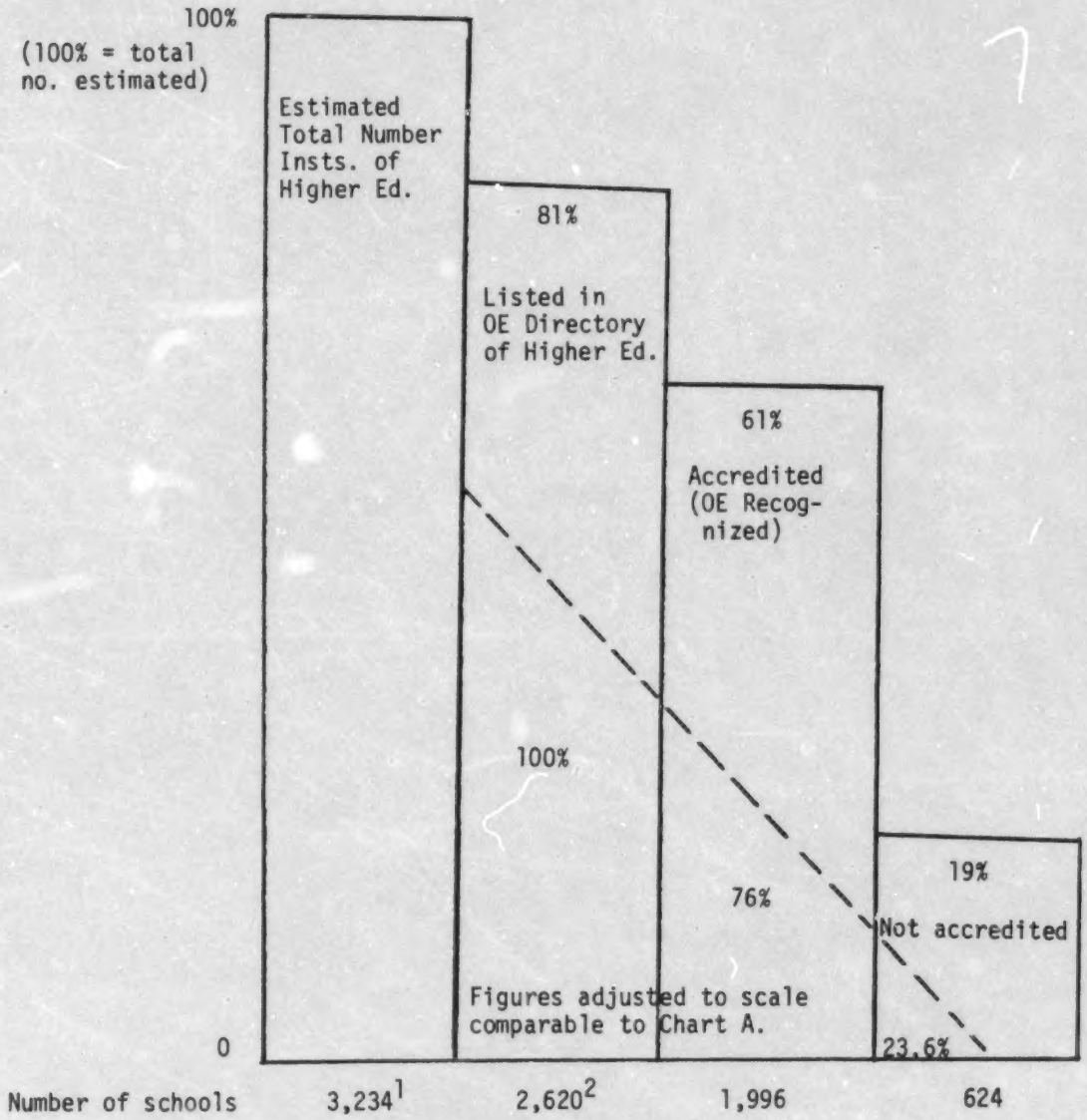
Source: Directory of Postsecondary Vocational Schools, 1971, (OE 1973) p. XIX.

APPENDIX III

Chart B

VARIATIONS OF ELIGIBILITY

HIGHER EDUCATION - 1972



[1]Orlans et al, p. 308, from SAA Survey.

[2]As adjusted by Orlans et al, p. 296.

APPENDIX

IV

DRAFT SUGGESTIONS BY THE FICE SUBCOMMITTEE ON EDUCATIONAL CONSUMER PROTECTION FOR EDUCATIONAL COMPLAINT GUIDES

EDUCATION COMPLAINT GUIDES

No organized and well-publicized mechanism exists at any level to handle complaints concerning educational consumer problems. These problems are increasing, as is the number of agencies and organizations -- educational and consumer-oriented, Federal and local -- involved in solving these problems. Likewise, more consumers are now voicing their complaints and concerns. The need for effective action, therefore, has been intensified.

The FICE Subcommittee on Educational Consumer Protection has incorporated into its strategy for Federal action its personal concern about the present unreliable, or non-existent, redress system. It has also incorporated the recommendations of the first National Conference on Consumer Protection in Education and recommends to FICE as part of the strategy that a Federal Educational Complaint Clearinghouse be established. Attached are two drafts of complaint guides.

D-R-A-F-T (A) is the simpler version.

-- It asks the student to document his or her complaint and submit it directly to a Federal office.

-- This Federal office, which is not yet established, would acknowledge receipt of the complaint to the student.

-- It would forward to, and follow-up with, the Federal or State, public or private, agency having legal authority to take action.

-- It would also notify appropriate Federal offices if and when a certain number of complaints were received concerning the same school. This warning could alert the Federal student assistance programs, for example, that they should watch closely, if not curtail, loans they insure or benefits they approve for students to attend that school.

-- The Federal office would also issue show-cause orders or take other legal action to investigate potential abuses by, or temporarily halt Federal outlays to, a certain school.

-- The Federal office would serve as an information and research center, coordinating and documenting information and issues on educational consumer problems. It would be able to keep informed the other interested Federal, State and local agencies and organizations. It could also handle some of the badly needed research into educational consumer issues.

D-R-A-F-T (B) represents a fairly complex redress mechanism under which the student must figure out which agency has authority to help him. The student must also be willing to send a copy of his complaint to a yet undesignated Federal office. This office would simply record complaints and coordinate with other agencies actively involved in complaint handling.

The FICE Subcommittee is now studying possibilities for educational redress in greater detail. Obviously much thinking will be needed on the establishment of a Federal office, pilot test for the complaint guide, involvement of consumer organizations, dissemination, research, etc.

D-R-A-F-T (A)

EDUCATIONAL COMPLAINT GUIDE

Misled? Signed in a hurry? Promised a job? Hit with unfair refund policies? The professors and administrators don't respect your adult consumer rights?

**** INTRODUCTION ****

This guide may help you if you or your parents believe you are, or have been, victimized by an educational institution or an employee of such an institution. It provides a complaint form for use by you, by those who can help you, and by the Federal agencies who want to resolve educational consumer problems.

The word "consumer" here means you -- the person who agrees to purchase educational services of an institution, program or skills center at the post-secondary level (meaning after high school).

This guide can be most useful to consumers with specific complaints or definite concerns. People with "gripes" against an institution should more properly express these dissatisfactions to the institution's student council or administration.

---- HOW TO COMPLAIN ----

If you have a serious complaint:

1. Contact the school and discuss your problem with a school official.

2. Put your complaint in writing (see the attached form). Keep a copy for yourself. Save copies of all correspondence.

3. Mail a copy of your complaint to the Federal Student Complaint Center, _____ _____ _____. This office will acknowledge receipt of your complaint, forward your complaint to the public or private agency with legal authority to handle your complaint and follow up on the progress that agency makes to resolve your complaint.

4. Be patient and thorough. Document your discussions and correspondence. And collect all relevant information such as copies of school catalogs and advertisements.

COMPLAINT FORM (Please Print) Today's Date _____

(Information You Provide Will Be Considered Confidential)

My Full Name _____

My Address _____

My Telephone Number (Area Code ___) _____

School Name _____

School Address _____

School Telephone Number (Area Code ___) _____

THIS COMPLAINT CONCERNS - check one or more of the following:

1. Money owed to me by the school ____
2. Money owed by me to a bank or school ____
3. Misleading claims or ads about the school ____
4. Misrepresentation of school's refund policy, contracts or agreements ____
5. Misrepresentation of the school's job placement services ____
6. Abuse of student rights ____
7. Other (Please identify) _____

EXPLAIN IN FULL YOUR COMPLAINT - describe events in the order in which they happened; include dates and names; identify what you can about the school (e.g., were you told it was accredited by the Federal government or approved by the Veterans Administration?)

Name of school official with whom I have discussed this matter: _____
_____ His/her title: _____
When: _____

D-R-A-F-T (B)

EDUCATIONAL COMPLAINT GUIDE

Misled? Signed in a hurry? Promised a job? Hit by unfair refund policies? The professors and administrators don't respect your adult consumer rights?

**** INTRODUCTION ****

The purpose of this complaint guide is three-fold: to offer guidance to students or parents who believe they are, or have been, victimized by an educational institution or an employee of such an institution; to provide a complaint form for use by the consumer or agency; and to identify some of the public and private agencies who can help resolve educational consumer problems.

We also hope to research consumer problems in the educational sector. Therefore, this complaint guide may serve both consumers and agencies attempting to resolve educational consumer problems.

The word "consumer" here means the person who agrees to purchase the educational services of an institution, program or skills center. The guide is concerned, therefore, with students as consumers, particularly at the postsecondary level.

This guide can be most useful to the consumer with a specific complaint or definite concern. People with "gripes" against an institution should more properly express these dissatisfactions to the institution's student council or administration.

---- HOW TO COMPLAIN ----

If you have a serious complaint:

1. Contact the school and discuss your problem with a school official. Keep a record of your discussion.

2. Put your complaint in writing (use the attached form). Keep a copy for yourself. Save copies of all correspondence.

3. Submit your written complaint to one or more of the agencies listed on pages 69-70 with a notice that you will follow up in 10 days with a telephone call (if at all possible; if not, write again).

4. Mail a copy of your complaint to the Federal office listed on page 70.

5. Call the agencies in (3) above to see how they are progressing with your problem.

6. Be patient and thorough. Document your discussions and correspondence. And collect all relevant information such as copies of school catalogs and advertisements.

COMPLAINT FORM (Please Print) Today's Date _____

Full name _____

Address _____

Telephone number (Area Code) _____

School's name _____

School's address _____

School's telephone number (Area Code) _____

THIS COMPLAINT CONCERNS - check the following:

1. Money owed to me by the school _____
2. Money owed by me to a bank or school _____
3. Misleading claims or ads about the school _____
4. Misrepresentation of school's refund policy, contracts or agreements _____
5. Misrepresentation of the school's job placement services _____
6. Abuse of student rights _____

EXPLAIN IN FULL YOUR COMPLAINT - describe events in the order in which they happened; include dates and names; identify what you can about the school.

Name of school official with whom this matter was discussed: _____

_____, His/her title: _____

When: _____

REDRESS

There is no one office which can solve all educational consumer problems. You may have to write to several offices; please be patient. The list below is not exhaustive, but we have tried to identify the major educational and consumer offices that could produce results for you. Be sure to send a copy of your complaint to the Federal office mentioned on page 70.

1. Federal Agencies

A. Accreditation and Institutional Eligibility Staff
Bureau of Postsecondary Education
U.S. Office of Education
Washington, D.C. 20202
(If the educational institution or program is participating in Federal assistance administered by the U.S. Office of Education, such as the Guaranteed Student Loan Program)

In most instances where the school or program is accredited by an accrediting agency or association recognized by the U.S. Commissioner of Education, the staff conducts its review in conjunction with the appropriate accrediting body.

B. Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580
(If the educational institution is a proprietary profit-seeking vocational or home study school)

C. Fraud Branch, Postal Inspection Service
U.S. Postal Service
Washington, D.C. 20260
(If the educational institution or program does business by mail, or uses the mail to transport its advertisement which you believe leads to fraud)

D. Education and Rehabilitation Service
Veterans Administration
Washington, D.C. 20420
(If the institution or program is approved for veterans education benefits)

E. Aviation Education Programs Division
Office of General Aviation, Federal Aviation Administration
Washington, D.C. 20590
(If the institution is a flight school or aviation mechanics school approved by the FAA)

F. Office of Consumer Affairs
Department of Health, Education and Welfare
Washington, D.C. 20201
(This office will be interested in your complaint, but will only be able to refer your complaint)

II. State and Local Agencies

A. State Licensing Agencies
(Find out from the school which State agency, if any, licensed the school -- probably the State Department of Education or the State Approving Agency for veterans benefits)

B. State, Regional or National Accreditation Agency
(Find out from the school if it is accredited and by which agency)

C. State Attorney General's Office
(Assistant Attorney General for Consumer Protection)

D. County or City Offices
(Call the Mayor's Office or check the telephone book)

III. Private Consumer Organizations

A. Citizen Consumer Councils

B. Legal Aid Society

C. Better Business Bureau

D. Newspaper and TV "Action Lines"
(To find addresses of the above, ask a friend or consult the telephone book)

IV. If all else fails, write your State or U.S. Senators and Congressmen.

NOTE: Please mail a copy of your complaint to the Federal office located at _____.
You will be helping us serve you. This copy will be used for official purposes only.

YOUR OWN NOTES